

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 22-38 are pending in this application. Claims 1, 2, 4, 5, 7, 9, 11-16, and 18-21 are canceled and Claims 22-38 are added by the present amendment.

Applicants respectfully submit that new Claims 22-38 find support in the application as originally filed, at least in the specification at page 11, line 21 to page 12, line 33. Thus, no new matter is added.

In the outstanding Office Action, Claims 1, 2, 4, 5, 13-16, 19, and 20 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,415,270 to Rackson et al. (herein "Rackson"); Claims 7, 9, 11, 12, 18, and 21 were rejected under 35 U.S.C. § 103(a) as unpatentable over Rackson in view of U.S. Patent No. 6,741,969 to Chen et al. (herein "Chen").

Applicants respectfully traverse those rejections with respect to new independent Claims 22, 27, 32, 37, and 38.

Claim 22 is directed to a server computer for an electrical auction, including, in part, a merchandise database configured to store a plurality of alternative merchandise information, each including an information concerning a characteristic of an alternative merchandise and an information concerning a price of the alternative merchandise. In addition, the server computer includes a bid information selecting section configured to select an unsuccessful bid information of an unsuccessful bidder from stored bid information. Further, the server computer includes an extracting section configured to extract an unsuccessful bid price and an unsuccessful bid characteristic from the selected unsuccessful bid information, and an alternative merchandise selecting section configured to select, from the merchandise database, alternative merchandise information that satisfies a predetermined rule of

comparison with the extracted unsuccessful bid price and the extracted unsuccessful bid characteristic. Independent Claims 27, 32, 37, and 38 include similar features in different claim formats.

In a non-limiting embodiment, Applicants' Figure 3 illustrates a process performed by a server computer 10 for an electrical auction. In step S62, a notice regarding a successful bid may be sent to a successful bidder, and in steps S63 through S65, a notice of alternative merchandise may be sent to each unsuccessful bidder, for example after the closing of the auction.

As discussed in the published specification at paragraphs [0058] - [0063], the server 10 may select one or more of the participants to an auction for a notebook computer who did not make a successful bid for the notebook computer. The server 10 may extract bid price information (e.g., an unsuccessful bid price) and merchandise information such as "type: notebook PC, size: B5" from the stored bid information (e.g., unsuccessful bid characteristic) from stored bid information for an unsuccessful bidder. Further, the server 10 may select alternative merchandise from a merchandise database according to a predetermined rule based on the extracted information for the unsuccessful bidder (e.g., information that satisfies a predetermined rule of comparison with the extracted unsuccessful bid price and the extracted unsuccessful bid characteristic). For example, the predetermined rule may be to select alternative merchandise having a same type and size as in the unsuccessful bid characteristic, and a similar price (e.g., within x%) to the highest price in the unsuccessful bid price.<sup>1</sup>

Accordingly, by using bid information, the server 10 of the present invention is able to extract information regarding bidder preferences (e.g., unsuccessful bid price and characteristics) and suggest corresponding alternative merchandise to participants. That is,

---

<sup>1</sup> Published specification at paragraphs [0063].

each participant is notified regarding alternative merchandise that they may want to buy based on previous unsuccessful bid information. Further, the exhibitors of such alternative merchandise may advantageously sell their merchandise even without participating in an auction.

Applicants respectfully submit that Rackson fails to teach or suggest the features of the inventions in independent Claims 22, 27, 32, 37, and 38. For example, Rackson fails to teach or suggest providing an unsuccessful auction bidder with alternative merchandise to purchase where the alternative merchandise is selected from a merchandise database based on a predetermined rule regarding an unsuccessful bid price and an unsuccessful bid characteristic of an unsuccessful bidder.

Rackson indicates that users may be permitted to “supply preference information that can be used by the multi-auction service to contact bidders when items having information related to their preferences are offered for auction by the multi-auction service or its clients.”<sup>2</sup> In other words, Rackson indicates that preference information *supplied by users* may be used to contact bidders. However, Rackson fails to teach or suggest extracting any unsuccessful price or characteristic information from an unsuccessful bid. Accordingly, Rackson fails to teach or suggest “an extracting section configured to extract an unsuccessful bid price and an unsuccessful bid characteristic from the selected unsuccessful bid information,” as recited in independent Claim 22, and as similarly recited in independent Claims 27, 32, 37, and 38.

Further, Rackson indicates that the system may “collect ‘market data’ on losing . . . bidders so that targeted e-mail advertising may be directed to the “losers” . . . saying “We noticed you did not win the auction for the item sought, but there are other identical items

---

<sup>2</sup> Rackson at column 14, lines 45-49.

available for auction at these locations.”<sup>3</sup> In other words, Rackson indicates that a loser may be sent an email suggesting other locations where identical items are available for purchase.

However, Rackson is silent regarding any consideration of the unsuccessful bid price of the unsuccessful bidder, and does not teach or suggest performing any comparison between the price that an unsuccessful bidder is willing to pay (i.e., the unsuccessful bid price) and a price of an alternative merchandise. Further, Rackson fails to teach or suggest selecting any particular alternative merchandise information for alternative merchandise, and Rackson only identifies a location where merchandise items are available. Moreover, Rackson fails to teach or suggest any apparatus or method that selects particular alternative merchandise, and fails to teach or suggest any selection of alternative merchandise based on a predetermined rule that relates an unsuccessful bid price of the unsuccessful bidder to alternative merchandise in a merchandise database. Thus, although Rackson identifies a location where identical merchandise is available, Rackson fails to identify any selected alternative merchandise that is selected based in part on a price that an unsuccessful bidder is actually willing to pay (i.e., the unsuccessful bid price).

Accordingly, Applicants respectfully submit that Rackson also fails to teach or suggest “an alternative merchandise selecting section configured to select, from the merchandise database, alternative merchandise information that satisfies a predetermined rule of comparison with the extracted unsuccessful bid price and the extracted unsuccessful bid characteristic,” as recited in independent Claim 22, and as similarly recited in independent Claims 27, 32, 37, and 38.

Therefore, Applicants respectfully submit that independent Claims 22, 27, 32, 37, and 38, and claims depending therefrom, patentably define over Rackson.

---

<sup>3</sup> Rackson at column 23, lines 18-29.

Further, Applicants respectfully traverse the rejection of Claims 7, 9, 11, 12, 18, and 21 under 35 U.S.C. § 103(a) as unpatentable over Rackson in view of Chen.

Claims 7, 9, 11, 12, 18, and 21 are canceled by the present amendment, thereby rendering moot this rejection. Further, Applicants respectfully submit that Chen also fails to teach or suggest the claimed features lacking in the disclosure of Rackson as discussed above. Accordingly, Applicants respectfully submit that independent Claims 22, 27, 32, 37, and 38, and claims depending therefrom, also patentably define over the disclosures of Rackson and Chen, whether taken individually or in combination.

Accordingly, Applicants respectfully submit that independent Claims 22, 27, 32, 37, and 38, and claims depending therefrom, are allowable.

Consequently, in light of the above discussion and in view of the present amendment this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



---

Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Zachary S. Stern  
Registration No. 54,719

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

EHK:ZS\la  
I:\ATTY\ZS\20's\204\204411US\204411US-AM DUE 8-4-07.DOC